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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-275

13 **MELVIN LEE HOLLIDAY, a.k.a.**
14 **MELVIN LEE HOLLIDAY, JR.**
15 **19820 Graystone Ln.**
16 **San Jose, CA 95120**

ACCUSATION

17 **Registered Nursing License No. 695457**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 2. On or about January 17, 2007, the Board of Registered Nursing issued Registered
25 Nursing License Number 695457 to Melvin Lee Holliday (Respondent). The Registered Nursing
26 License was in full force and effect at all times relevant to the charges brought herein and will
27 expire on December 31, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

...

6. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in

1 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
2 himself or herself, any other person, or the public or to the extent that such use impairs his or her
3 ability to conduct with safety to the public the practice authorized by his or her license.

4 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
5 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
6 or the possession of, or falsification of a record pertaining to, the substances described in
7 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
8 thereof."

9
10 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
11 revoke a license on the ground that the licensee has been convicted of a crime substantially
12 related to the qualifications, functions, or duties of the business or profession for which the
13 license was issued.

14 8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
15 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
16 licensee or to render a decision imposing discipline on the license.

17 9. California Code of Regulations, title 16, section 1444, states:

18 "A conviction or act shall be considered to be substantially related to the qualifications,
19 functions or duties of a registered nurse if to a substantial degree it evidences the present or
20 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
21 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

22 "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
23 subdivision (d) of Penal Code Section 11160.

24 "(b) Failure to comply with any mandatory reporting requirements.

25 "(c) Theft, dishonesty, fraud, or deceit.

26 "(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
27 Penal Code."


1 Vehicle Code section 14601.2(a) (driving on suspended or revoked license). Respondent was
2 sentenced to probation for three years, ordered not to drive without a valid license, and ordered to
3 pay fines in the amount of \$1,825.00. The circumstances of the conviction were that on or about
4 December 13, 2008, Respondent was observed by a California Highway Patrol Officer to be
5 sitting in his parked car on the side of southbound Highway 87 in San Jose, California.
6 Respondent appeared to be intoxicated, failed field sobriety tests, and stated to the officer that he
7 was "just trying to get home." Respondent's blood alcohol was .291%.

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9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Registered Nursing issue a decision:

- 12 1. Revoking or suspending Registered Nursing License Number 695457, issued to
13 Melvin Lee Holliday.
- 14 2. Ordering Melvin Lee Holliday to pay the Board of Registered Nursing the reasonable
15 costs of the investigation and enforcement of this case, pursuant to Business and Professions
16 Code section 125.3;
- 17 3. Taking such other and further action as deemed necessary and proper.
- 18

19 DATED: 11/24/09


20 LOUISE R. BAILEY, M.ED., RN
21 Interim Executive Officer
22 Board of Registered Nursing
23 Department of Consumer Affairs
24 State of California
25 Complainant
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